IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3969 OF 2004

IN

FIRST APPEAL NO.692 OF 2003

Smt.Kiran Ajit Lakhani .. Applicant

Versus

Shri Ajit Hariram Lakhani .. Respondent

Shri P.P.Tipnis i/b Consulta Juris for applicant

Shri Hakim Salim for respondent

CORAM : P.V.KAKADE, J.

DATE : 5TH NOVEMBER, 2004.

P.C.:

NOT ON BOARD.

1. Heard both sides.

2. By order dated 20th April 2004 passed in Civil

Application No.1265 of 2003 the Applicant was given access to the child on every Friday, Saturday and Sunday during course of the vacation and this proposal was acceptable to both the parties. Hence the order was passed to that effect. Now the Diwali Vacation is started and therefore, application is made for the custody of the child. However, at the time of previous order the child was interviewed by this Court and it was found that 13 years old daughter was reluctant to go with the mother and hence the order of custody was not passed. The circumstances have not changed, therefore, the prayer for temporary custody is rejected. However, the applicant-mother shall have access to the child during Diwali Vacation on Friday, Saturday and Sunday and also on two Diwali Holidays i.e. 10th and 11th November, 2004. During which course, the applicant would be at liberty to take the child for marketing, hoteling, cinema etc. for which Respondent shall not take any objection. If the respondent does not comply with this order he will face the further consequences. If the applicant meet the child in the house itself, the respondent as well as his sister will also remain present, if respondent so desires. With this direction the application, the application stands disposed of.

Hearing of the Appeal is expedited.

3. At this stage the learned counsel for the respondent makes a statement that the child is taken away by respondent to other city for vacation. In that case it will be the duty of the advocate for respondent to inform the respondent about the court’s order and call the child back to the place residence for compliance of this order.